

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 13, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LELAND JAMES VIJARRO,

Defendant.

No. 1:24-CR-02055-MKD

ORDER ACCEPTING GUILTY
PLEA AND SETTING SENTENCING
SCHEDULE

On May 12, 2025, Leland James Vigarro appeared before the Court and entered a plea of guilty to Counts 2 and 5 of the Indictment filed on August 13, 2024, charging him with assault of federal officer with a deadly weapon, in violation of 18 U.S.C. § 111(a)(1), (b) (Count 2); and using, carrying, brandishing and discharging a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(iii) (Count 5). Defendant was represented by Nick Mirr. Assistant United States Attorney Bree Black Horse appeared on behalf of the United States.

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1 The Court finds that Defendant is fully competent and capable of entering an
2 informed plea, that Defendant is aware of the nature of the charges and
3 consequences of the plea, and that the plea of guilty is knowing, voluntary, is not
4 induced by fear, coercion, or ignorance, and is supported by an independent basis
5 in fact establishing each of the essential elements of the crime. Therefore,
6 Defendant's plea of guilty is accepted. However, the Court reserves ruling on the
7 Rule 11 nature of the plea agreement until the time of sentencing.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. **Sentencing Hearing:** A sentencing hearing is **SET** for **August 11, 2025,**
10 at **2:30 PM** in **Yakima.**

11 a. **Continuance Requests:** Any requests to continue the sentencing
12 hearing **must (1)** demonstrate extraordinary circumstances, **(2)** be
13 made by written motion, **(3)** indicate the positions of the opposing
14 party and the U.S. Probation Officer on the continuance, and **(4)** be
15 filed **at least three weeks** before the scheduled sentencing hearing.
16 Any objections to the requested continuance shall be filed no later
17 than 3 days after the motion to continue is filed.

1 b. Unless and until a requested continuance is granted, counsel should
2 presume that the sentencing hearing will proceed as scheduled and
3 prepare accordingly.

4 2. **Custody:** Defendant shall remain in the custody of the U.S. Marshals
5 Service pursuant to the detention order previously entered in this matter. ECF
6 No. 10. **If a sentence of incarceration is imposed, Defendant shall remain in**
7 **the custody of the U.S. Marshals Service.**

8 3. **PSR:** The United States Probation Office shall prepare a Presentence
9 Investigation Report (PSR) pursuant to Fed. R. Crim. P. 32(c).

10 a. **If defense counsel wishes to be present for the PSR interview,**
11 **defense counsel must make themselves available to attend the PSR**
12 **interview within 14 days of the change of plea hearing. If defense**
13 **counsel fails to do so, the Probation Officer is authorized to**
14 **proceed with the PSR interview without defense counsel present.**

15 *See* Fed. R. Crim. P. 32(c)(2). The Probation Officer has the
16 discretion to extend the date of the PSR interview, but may not extend
17 the interview to a date that will require a continuance of the
18 sentencing hearing. If defense counsel does not respond to the
19 Probation Officer's communication about scheduling the interview
20

1 within three days, the Probation Officer is directed to contact and
2 advise chambers.

3 4. By the date set forth in the chart below, the Probation Officer shall
4 disclose the PSR to Defendant, counsel for Defendant, and the United States.
5 Disclosure of the PSR shall be subject to the limitations imposed by Rule 32 of the
6 Federal Rules of Criminal Procedure.

7 **5. Objections to PSR: Within 14 days of the filing of the PSR,** counsel
8 shall **file any PSR objections** as to legal and factual errors or omissions;
9 sentencing classifications; sentencing guideline ranges; and policy statements
10 contained in or omitted from the report. Objections shall be numbered and identify
11 the paragraph(s) to which the objection applies. Objections shall address the PSR
12 in sequential order, beginning with the lowest numbered paragraph. If an objection
13 is filed, the Probation Officer shall conduct such additional investigation as is
14 necessary to assess the merits of the objection.

15 **6. Final PSR:** The Probation Officer shall submit the final PSR to the
16 Court by the date set forth in the chart below. The PSR shall be accompanied by
17 an addendum setting forth any objections counsel made, including those that have
18 not been resolved, together with the officer's comments and recommendations
19 thereon. The Probation Officer shall certify that the contents of the report, other
20

1 than the sentencing recommendations, including any revisions or addenda, have
2 been disclosed to counsel for Defendant and the United States, and that the
3 addendum fairly states any remaining objections. Except with respect to any
4 written objection made as required above, the PSR and computations shall be
5 accepted by the Court as accurate. Upon a timely objection by Defendant, the
6 United States bears the burden of proof on any fact that is necessary to establish
7 the base offense level. The Court, however, for good cause shown, may allow that
8 a new objection be raised at any time before the imposition of sentence. In
9 resolving any disputed issues of fact, the Court may consider any reliable
10 information presented by the Probation Officer, Defendant, or the United States.

11 Nothing in this Order requires the disclosure of any portions of the PSR that
12 are not disclosable under Fed. R. Crim. P. 32. The PSR shall be deemed to have
13 been disclosed when the PSR is docketed on CM/ECF.

14 **7. Sentencing Memos/Motions:** By the date set forth in the chart below,
15 counsel shall file and serve all motions and memoranda pertaining to Defendant's
16 sentence, including departures and variances, and sentencing recommendations.

- 17 a. Initial sentencing memoranda are limited to 20 pages, absent prior
18 permission from the Court to file an overlength memorandum.

1 b. Counsel shall utilize the following format when preparing initial
2 sentencing memoranda:

3 I. Offense Level & Criminal History

4 II. Departures

5 III. 18 U.S.C. § 3553(a)

6 c. Under Section I. Offense Level & Criminal History, counsel shall
7 discuss whether the PSR's Total Offense Level calculations (not
8 including departures) and Criminal History calculation are correct or
9 incorrect, providing legal authority for the party's position.

10 d. Under Section II. Departures, counsel shall discuss whether a
11 downward and/or upward departure is warranted under the Guidelines
12 and provide legal authority for such position.

13 e. Under Section III. 18 U.S.C. § 3553(a), counsel shall discuss whether
14 the resulting guideline range provides a reasonable sentence
15 sufficient, but not greater than necessary to comply with the purposes
16 set forth in 18 U.S.C. § 3553(a)(2), considering the other factors listed
17 in § 3553(a).

1 e. **Failure to file and serve sentencing materials by this date, to**
2 **include motions for upward or downward departure, will be**
3 **deemed a waiver of the right to do so.**

4 8. **Responses:** By the date set forth in the chart below, the opposing party
5 shall file and serve its response, limited to no more than seven (7) pages.

6 9. **Safety Valve:** If Defendant intends to qualify for the safety valve, the
7 parties must conduct a safety valve interview to determine if the Defendant has met
8 the requirements of U.S.S.G. § 5C1.2(a)(5) by the date set forth in the chart below.

9 10. **Witnesses/Exhibits:** If either party intends to call witnesses or proffer
10 exhibits at sentencing, witness and exhibit lists must be exchanged by the parties
11 and provided to the Court by the date set forth in the chart below.

12 11. **Duration:** Sentencings shall be scheduled for a total of **45 minutes**. If
13 counsel believes that the sentencing hearing will last longer than 45 minutes,
14 counsel shall notify Chambers by the date set forth in the chart below to ensure that
15 sufficient time is scheduled.

16 12. **Pending Motions:** All pending motions pertaining to Defendant are
17 **DENIED as moot**, and all pending hearing and trial dates pertaining to Defendant
18 are **STRICKEN** from the Court's calendar.

13. This Order authorizes the District Court Executive to accept Defendant's payment in the amount of \$100 per count, for a total of \$200, toward Special Penalty Assessments.

14. Summary of Deadlines

Deadline for Defense Counsel to Attend PSR Interview:	May 27, 2025
Draft PSR disclosed:	July 3, 2025
PSR Objections filed:	July 17, 2025
Final PSR filed:	August 1, 2025
Motions to Continue Sentencing filed: Objections to Continuance filed:	July 21, 2025 3 days after motion filed
Safety-Valve Interview Conducted: (if applicable)	July 21, 2025
Sentencing Motions & Memoranda filed: Responses filed:	July 25, 2025 August 4, 2025
Deadline to notify Chambers if sentencing will require more than 45 minutes:	August 4, 2025
Witness Lists/Exhibit Lists filed:	August 4, 2025
SENTENCING HEARING	August 11, 2025 2:30 PM - Yakima

IT IS SO ORDERED. The District Court Clerk is hereby directed to enter this Order and provide copies to counsel, the United States Probation Office, and the United States Marshals Service.

DATED May 13, 2025.

s/Mary K. Dimke
MARY K. DIMKE
UNITED STATES DISTRICT JUDGE

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